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12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 CPALEAD, LLC, a Nevada limited liability
15 company,

16 Plaintiff, v.

17 ADEPTIVE ADS LLC, a Nevada limited
liability company, JASON BUTLER, an
18 individual, and MICHAEL BELMONTE, an
individual,

19 Defendants.
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Case No. 2:14-cv-01449-JCM-CWH

PRELIMINARY INJUNCTION

1 **UPON CONSIDERATION** of Plaintiff's complaint, motion for preliminary injunction,
2 the supporting memorandum of points and authorities, the supporting declarations and exhibits,
3 the papers and pleadings on file in this case, and for good cause shown;

4 **THE COURT HEREBY FINDS THAT:**

5 1. Plaintiff CPALEAD, LLC has suffered and is likely to continue to suffer
6 irreparable injury if the Court does not enjoin the Defendant Belmonte from destroying evidence
7 of threatened or actual misappropriation of Plaintiff's trade secrets and other confidential
8 business information including, but not limited to: (a) source code; (b) object code; (c) data
9 structures; (d) publisher contact information; and (e) advertiser contact information (hereinafter
10 "Plaintiff's Protected Information"), and from using and/or disclosing and/or threatening to
11 disclose Plaintiff's Protected Information, pending the trial of this action on the merits;

12 2. Plaintiff is likely to succeed on the merits of its claim for misappropriation of
13 trade secrets against Defendant Belmonte under N.R.S. § 600A.010 *et seq.* for the following
14 reasons:

15 A. Plaintiff's Protected Information constitutes trade secrets within the
16 meaning of N.R.S. § 600A.030(5) in that the information derives independent economic value
17 from not being generally known to, and not being readily ascertainable by proper means by, the
18 public or any other persons who can obtain commercial or economic value from its disclosure or
19 use; and the information is the subject of efforts that are reasonable under the circumstances to
20 maintain its secrecy;

21 B. Plaintiff is likely to prove that the Defendant Belmonte misappropriated or
22 threatened to misappropriate Plaintiff's Protected Information within the meaning of N.R.S. §
23 600A.030;

24 3. The balance of hardships tips in Plaintiff's favor because any continued disclosure
25 or use of Plaintiff's Protected Information in the absence of a preliminary injunction may destroy
26 any trade secret protection afforded such data and will continue to cause Plaintiff to suffer
27 irreparable injury. In addition, destruction of evidence of Defendant Belmonte's
28 misappropriation of Plaintiff's Protected Information may hinder Plaintiff's efforts to prove its

1 claims in this action and obtain relief from the Court in these proceedings. In contrast, a
2 preliminary injunction will not unduly burden Defendant Belmonte because it will merely
3 require that Defendant Belmonte preserve evidence and will merely prohibit Defendant
4 Belmonte from using and/or disclosing Plaintiff's Protected Information pending trial on the
5 merits; and

6 4. The public interest weighs in favor of preservation of evidence and protection of
7 trade secrets.

8 **NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

9 1. Plaintiff's motion for preliminary injunction is **GRANTED** with respect to
10 Defendant MICHAEL BELMONTE also known as MICHAEL SIMMONS (hereinafter
11 "Defendant SIMMONS") as follows:

12 2. Defendant SIMMONS and all other persons acting in concert or participation
13 with him are hereby preliminary enjoined, pending a trial on the merits, from any actual or
14 threatened misappropriation of Plaintiff's Protected Information as follows: (a) from making any
15 use whatsoever of Plaintiff's Protected Information, in whole or in part, for any purpose,
16 including, but not limited to, contacting any persons identified in Plaintiff's Protected
17 Information; (b) copying Plaintiff's Protected Information, in whole or in part, in any form or
18 through any means, including, but not limited to, creating any derivative works or subsets of
19 Plaintiff's Protected Information; (c) moving or transferring Plaintiff's Protected Information, in
20 whole or in part, from any computer, storage device, or media upon which it currently exists onto
21 any other computer, storage device, or media; (d) disclosing, disseminating or otherwise
22 communicating Plaintiff's Protected Information, in whole or in part, in any form or through any
23 means to any other person or entity; (e) acquiring or attempting to acquire any additional trade
24 secrets or other confidential and proprietary business information of Plaintiff, in whole or in part,
25 including Plaintiff's Protected Information, in whole or in part; (f) destroying, altering, moving,
26 removing, or otherwise tampering with or disposing of any paper or electronic copy of Plaintiff's
27 Protected Information, or any other information, documents, or files relevant to any of the claims
28 or defenses at issue in this action, in whole or in part, within their respective possession, custody,

1 or control; and (g) destroying, altering, moving, removing, or otherwise tampering with or
2 disposing of any computer, storage device, or storage media upon which any copy of Plaintiff's
3 Protected Information, or any other information, documents, or files relevant to any of the claims
4 or defenses at issue in this action, in whole or in part, exists or has existed;

5 3. The Court hereby appoints TERIS to act as an officer of the Court in this action.
6 Within three business days of the entry of this Order, Defendant SIMMONS shall deliver all
7 computers and computer media upon which any copy or version of Plaintiff's Protected
8 Information currently exists or has existed (hereinafter the "Media") to TERIS for forensic
9 imaging in accordance with the following protocol:

10 a. TERIS shall take and remain in possession of the Media and shall not disclose any
11 portion of the Media to any third person or entity except as provided herein or except as may be
12 provided by further order of the Court;

13 b. TERIS shall create five (5) forensically sound images of the Media;

14 c. Neither the imaging nor the dissemination of information contained on the Media
15 under the terms of this Order shall waive any claim of confidentiality to any portion of the
16 Media;

17 d. TERIS shall provide counsel for Plaintiff with one (1) forensically sound copy of
18 the Media and shall provide counsel for Defendant SIMMONS with one (1) forensically sound
19 copy of the Media, retaining the remaining three (3) copies in a secure location;

20 e. Plaintiff and Defendant SIMMONS shall equally split the cost of imaging the
21 Media and the cost of creating the aforementioned forensic images;

22 f. The Media and all forensic and other copies thereof shall, in their entirety, be
23 designated Attorneys' Eyes Only under the protective order attached hereto as Exhibit 1 for a
24 period of thirty (30) days from the date it is received by the parties' counsel (hereinafter the
25 "Review Period");

26 g. During the Review Period, Defendant SIMMONS may designate specific files
27 containing personal information as "Protected Personal Information" and may designate other
28 specific files and information as Attorneys' Eyes Only under the protective order attached hereto

1 as Exhibit A;

2 h. After the Review Period, all files and documents contained on the Media that
3 have not been designated in accordance with the protective order attached hereto as Exhibit 1
4 shall not be treated as confidential;

5 i. Any disclosure of attorney-client privileged communications or work-product
6 materials contained on any copy of the Media shall not be deemed to waive Defendant
7 SIMMONS' claim of privilege or estop Defendant SIMMONS from designating such
8 information and files as privileged at a later date;


9 j. Upon receiving a written request from Defendant SIMMONS' counsel, Plaintiff's
10 counsel shall return the allegedly privileged electronic files to Defendant Belmonte's counsel
11 within five (5) business days, regardless of whether Plaintiff's counsel agrees with the claim of
12 privilege and/or work product protection, shall delete all copies of the electronic files in their
13 possession, custody, or control, and shall retain no copies in any form, paper, or electronic; and

14 k. Upon return of the requested electronic files, Defendant SIMMONS' counsel
15 shall enter such documents on a privilege log that fully complies with the requirements of Fed.
16 R. Civ. P. 26(b)(5), and shall serve a copy of the privilege log upon Plaintiff's counsel;

17 4. Plaintiff's motion for preliminary injunction against Defendant Adeptive Ads
18 LLC and Defendant Jason Butler is **DENIED**, without prejudice; and

19 5. Plaintiff shall not be required to post any additional security. The \$1,000 posted
20 by Plaintiff in connection with the temporary restraining order shall remain in place pending trial
21 on the merits.

22 ENTERED: this 20th day of October, 2014.

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25 **UNITED STATES DISTRICT JUDGE**